

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DOCKETED COMPLAINT NO. 05-103

DONALD EUGENE JOHNSON
TX-1323317-G§
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§**AGREED FINAL ORDER**

On this the 10th day of August, 2007, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Donald Eugene Johnson, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent Donald Eugene Johnson, a state certified general real estate appraiser, holds certification number TX-1323317-G, and has been certified since July 16th, 1992.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about October 11th, 2004 Respondent appraised the property located at 11907 Kingslake Forest Drive, Houston, Texas 77044 ("the Kingslake property") for First Preston.
4. On May 16th, 2005, TALCB received a staff-initiated complaint against Respondent from Jeff Strawmyer, in accordance with TEX. OCC. CODE § 1103.451. The complaint was based upon a referral from Jane Hall, Director of the Processing and Underwriting Division of the United States Department of Housing and Urban Development ("HUD"). HUD alleged that Respondent's appraisal report on the property contained various violations of the Uniform Standards of Professional Appraisal Practice and FHA supplemental standards.
5. On or about May 16th, 2005 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 2001 et. seq., notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response was received.
6. The Enforcement Division concluded that the Respondent's appraisal report violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- a) USPAP Supplemental Standards Rule – Respondent violated HUD guidelines including failing to describe the neighborhood accurately, failing to inspect the crawl space, and failing to describe the improvements accurately and make supported adjustments to the comparable sales.
- b) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to provide accurate data for the Kingslake property and report that the improvements include a manufactured home. He also failed to describe the improvements accurately in terms of effective age, ceiling insulation and steps and handrails.
- c) USPAP Standards 1-3(b) and 2-2(b)(x) – Respondent failed to provide a brief summary of his rationale / reasoning for his determination of the Kingslake property's highest and best use.
- d) USPAP Standards 1-4(a) and 2-2(b)(ix) – Respondent failed to collect, verify, analyze, and reconcile comparable sales data adequately. He did not make adequate and supported adjustments for differences between the comparable sales and the Kingslake property in terms of design/appeal, quality, and age.
- e) USPAP Standard 1-1(b) – Respondent made substantial errors of omission or commission by failing to identify the fact that the Kingslake property contained a manufactured home.
- f) USPAP Standard 2-1(a) – Respondent produced a misleading report because he utilized comparable sales that were site built homes to compare to a manufactured home. Additionally, he did not make appropriate adjustments to reflect the difference between site built and manufactured homes.

7. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by failing to conform to USPAP in effect at the time of the appraisal report for the Kingslake property.

8. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of material facts in the appraisal report for the Kingslake property. These material misrepresentations and omissions of material fact include: omitting important information about the nature of the improvements to the Kingslake property (i.e. that it contained a manufactured home), misrepresenting that the Kingslake property was comparable to site built homes and omitting the important distinctions between the Kingslake property and the other comparables used and omitting a brief summary of his reasoning / rationale for his determination of the Kingslake property's highest and best use.

9. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(13) by failing to actively, personally, and diligently supervise his appraiser trainee who performed this particular appraisal assignment.

10. The Enforcement Division has concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.33(a) by signing a report that he did not substantially produce.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over these matters pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535 (Vernon 2005).
2. Respondent violated the following USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Supplemental Standards Rule and USPAP Standards Rules: 1-2(e)(i); 2-2(b)(iii); 1-3(b); 2-2(b)(x); 1-4(a); 2-2(b)(ix); 1-1(b); and, 2-1(a).
3. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of material facts in his appraisal report for the Kingslake property.
4. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(13) by failing to actively, personally, and diligently supervise his appraiser trainee.
5. Respondent violated 22 TEX. ADMIN. CODE §§ 153.33(a) by signing a report that he did not substantially produce.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent shall:

1. Pay to the Board an Administrative Penalty of \$1,000.00;
2. Attend and complete a minimum, 15 classroom-hour course in USPAP;
3. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be completed within **TWENTY DAYS** of the date of this Agreed Final Order. Failure to pay the administrative penalty within the time allotted shall result in **IMMEDIATE SUSPENSION** of Respondent's certification pursuant to notice to Respondent from the Board indicating that Respondent has not paid the administrative penalty.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order

may be taken through correspondence courses. All classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

Failure to complete the education required by this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the educational requirements of this Agreed Final Order.

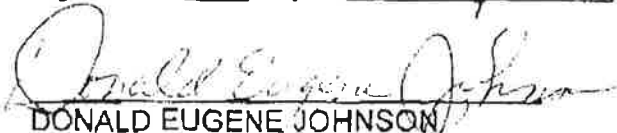
ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the Administrative Penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 25th day of July, 2007.


DONALD EUGENE JOHNSON

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 23rd day of July, 2007, by DONALD EUGENE JOHNSON, to certify which, witness my hand and official seal.

07/18/2007 12:39 FAX 5124653953

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Stephanie Layfield
Notary Public Signature

Stephanie Layfield
Notary Public's Printed Name



Signed by the Commissioner this 8th day of August, 2007.

Loretta DeHay
Loretta DeHay, Interim Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 10 day of August, 2007.

Larry Kokel
Larry Kokel, Chairperson
Texas Appraiser Licensing and Certification Board